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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,915	11/14/2003	Tsutomu Okabe	245156US3CIP	7664
22850	7590	07/28/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MOORE, KARLA A				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
07/28/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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### Office Action Summary

**Application No.**

10/706,915

**Applicant(s)**

OKABE ET AL.

**Examiner**

KARLA MOORE

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,7,8 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-2,5,7-8 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claim 11 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 11 is drawn to a different species than claim 1 and its dependent claims, where the species of claim 1 (illustrated in Figure 2) has been previously examined and the species of claim 11 (illustrated in claim 7) has not been previously examined. Previously, claim 11 was generic.
2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/706,977. Although the conflicting claims are not identical, they are not patentably distinct from each other because they contain recitations drawn to the same structures and relationships between those structures, where there are only slight stylistic differences in the language that is used. The claimed inventions would be obvious variations of one another to one of ordinary skill in the art.
5. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.
6. Claims 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 27 and 28 of copending Application No. 10/330,092. Although the conflicting claims are not identical, they are not patentably distinct from each other because they contain recitations drawn to the same structures and relationships between those structures, where there are only slight stylistic differences in the language that is used. The claimed inventions would be obvious variations of one another to one of ordinary skill in the art.
7. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Allowable Subject Matter***

9. Claims 1-2, 5 and 7-8 are allowed.
10. The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or fairly suggest a wafer processing apparatus as claimed and specifically comprising, inter alia, a door member capable of holding the lid of the clean box so as to open or close the access opening and said first opening from an inside of the chamber, said door member having a first edge portion and a second edge portion, wherein in a condition where said door member closes said first opening, the first edge portion overlaps a part of an inside wall of said chamber at a periphery of said first opening to contact the inside wall of said chamber and the second edge portion does not overlap an inside wall of said chamber at the periphery of the first opening, and wherein the second edge portion forms an aperture defined by an edge portion of the first opening in which the second edge portion does not overlap the inside wall of said chamber at the periphery of said first opening and the second edge portion of said door member, the aperture allowing a gas-fluidic communication between the inside of said chamber and the outside of said chamber in the condition where said door member closes said first opening. Further, no other proper prior art was located that would have fairly suggested the aforementioned features as claimed, alone or in combination with other prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

11. Applicant's arguments, filed 14 April 2008 (and entered 6 May 2008), with respect to claims 1-2, 5 and 7-8 have been fully considered and are persuasive. The rejections of these claims over the prior art have been withdrawn.

13. The double patenting rejection over co-pending application 10/706,977 remains. Additional double patenting rejections over co-pending application 10/330,092 have been added, as described above. However, it is noted that if these were the only remaining issues in the application, these rejections would be withdrawn so as to allow the present application. At that point, any remaining double patenting rejections in the co-pending applications will be converted from "provisional" double-patenting rejections to a double-patenting rejections. For this reason, claims 1-2, 5 and 7-8 are indicated as allowable on the office action summary.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KARLA MOORE whose telephone number is (571)272-1440. The examiner can normally be reached on Monday-Friday, 9:00 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571.272.1435. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karla Moore/  
Primary Examiner, Art Unit 1792  
21 July 2008